



## New York State Office of Parks, Recreation and Historic Preservation

The Governor Nelson A. Rockefeller Empire State Plaza • Agency Building 1, Albany, New York 12238  
www.nysparks.com

June 4, 2007

Mr. Vernon A. Williams, Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0001

ENTERED  
Office of Proceedings

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Part of  
Public Record

**FILING FEE WAIVED**

**RE: Finger Lakes Railway Corp Abandonment/Yates County, NY FR-4915-04P**

Dear Mr. Williams:

This request is filed on behalf of the New York State Office of Parks, Recreation and Historic Preservation (Proponent) which is a government agency interested in natural resources. While not taking a position on the merits of this abandonment, Proponent requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between milepost 41.35 in the Village of Penn Yan, Township of Benton and milepost 46.3 outside the township of Benton, located in Yates County, New York.

### A. Public Use Condition

Proponent requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the rail corridor in question would make an excellent recreational trail and conversion of the property to trail use is in accordance with regional plans and consistent with the policies with the Statewide Comprehensive Outdoor Recreation Plan (SCORP). OPRHP is aware that the Friends of the Outlet, Inc. and Parks and Trails New York also support use of this corridor as a trail and the Friends intend to file an interim trail use and public use condition request. The time period sought is 180 days from the effective date of abandonment authorization. Proponent needs this much time to fully evaluate the trail and to commence negotiations with the carriers.
2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of abandonment authorization for the same reason as indicated above.

**B. Interim Trail Use**

The railroad right-of-way in this proceeding is suitable for rail banking. In addition to the public use conditions sought above, Proponent also makes the following request:

**STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY**

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247 (d), and 49 C.F.R. §1152.29, New York State Office of Parks, Recreation and Historic Preservation is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability), in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the owner for the right-of-way and operated by Finger Lakes Railroad.

The property known as the Finger Lakes Railway extends from railroad milepost 41.35 in the Village of Penn Yan, Township of Benton and milepost 46.3 outside the township of Benton a distance of 4.95 miles located in Yates County, New York. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB -1005X. A map depicting the right-of-way is attached.

The NYS Office of Parks, Recreation and Historic Preservation acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon Finger Lakes Railway Corporation (FGLK) 68 Border City Road, Geneva, NY 1445, by U.S. Mail, postage prepaid, first class, on June 1, 2007.

Respectfully submitted,



Erik Kulleseid

Deputy Commissioner for Open Space Protection

**Attachments**

cc: Eric M. Hocky  
Gollatz, Griffin & Ewing, P.C.



**F A X**

**DATE:** June 4, 2007

**TO:** Vernon Williams  
**ATTN:** Surface Transportation Board

**FROM:** Erik Kulleseid  
Deputy Commissioner for Open Space Protection  
NYS Office of Parks, Recreation & Historic Pres.  
518-474-0430

**RE:** Finger Lakes Railway Corp Abandonment/Yates Co.

**NO. OF PAGES:** 4  
(Including cover)

Linda Conaway  
518-474-0430

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